

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

CIVIL ACTION NO. 3:17-cv-05806-RJB

DECLARATION OF ANDREA
BRENNEKE IN SUPPORT OF
STATE OF WASHINGTON'S
RESPONSE TO THE COURT'S
PROPOSED ORDER GRANTING
SUMMARY JUDGMENT OF
DISMISSAL (ECF NO. 306)

Pursuant to 28 U.S.C. § 1746(2) I, Andrea Brenneke, state and declare as follows:

1. I am over 18 years of age, have personal knowledge of and competent to testify about the matters contained herein

2. I am an Assistant Attorney General for the State of Washington, and make this declaration as a representative of the State of Washington in support of Washington's Response to the Court's Proposed Order.

3. To develop Washington's unjust enrichment claim, Washington diligently sought to obtain evidence of the financial benefit to defendant The GEO Group, Inc., of its use of detainee workers in the operation of the Northwest Detention Center, and its practice of paying detainee workers \$1 per day, instead of paying a fair wage to work-eligible detainees or Tacoma-area residents who also could do the work.

1 4. Despite Washington's diligent and exhaustive efforts, GEO has not yet produced
2 full financial information or documents and much information about the full amount of financial
3 benefit GEO has received from detainee labor at the NWDC is unavailable.

4 5. Throughout the discovery period, Washington expounded written discovery and
5 engaged in deposition practice based upon the information available. Washington also sought
6 the necessary missing information by filing and largely prevailing on a motion to compel, ECF
7 No. 126 (Joint LCR 37 Motion); ECF No. 133 (Order granting in part Washington Motion to
8 Compel), and overcame subsequent efforts by defendant in the trial court to reverse that order.
9 *See* ECF No. 144 (Order denying GEO's Motion for Reconsideration of Order Compelling
10 Discovery of its Confidential Financial Documents); ECF No. 157 (Order Denying Defendant
11 The Geo Group, Inc.'s Motion for Certification of Interlocutory Appeal).

12 6. Defendant sought to avoid production of the financial evidence of its benefit
13 from detainee labor at the NWDC by petitioning for a Writ of Mandamus at the Ninth Circuit
14 Court of Appeals. Washington diligently defended against Defendant's petition and prevailed
15 when the Ninth Circuit denied the Writ of Mandamus on September 3, 2019. ECF No. 296.

16 7. Washington diligently pursued production of the missing information and
17 documents after the appellate proceedings concluded. Attached hereto as **Brenneke**
18 **Declaration Exhibit A** is a true and correct copy of a letter from me to counsel for GEO,
19 requesting that GEO's financial information and documents be produced on or before
20 September 18, 2019.

21 8. GEO did not produce the information despite the Ninth Circuit's Order. Instead,
22 GEO's counsel sent an email requesting to meet and confer after he completed another trial.
23 Washington agreed to a meet and confer conference on the requested date, but GEO's counsel
24 never followed up. A true and correct copy of the email communications between Colin
25 Barnacle, counsel for GEO, and me are attached as **Brenneke Declaration Exhibit B**.
26

9. Defendant GEO still has not produced any of the financial information or documents compelled by the trial court, as affirmed by the Court of Appeals on September 3, 2019. Instead, it has pursued yet another round of motions practice to dismiss the case. As a result, Washington is unable to present all relevant evidence that would support its unjust enrichment claim prior to the Court dismissing that claim on summary judgment.

I declare under penalty of perjury that the foregoing is true and accurate.

Executed this 4th day of October, 2018, in Mount Pleasant, South Carolina.

s/ Andrea Brenneke
Andrea Brenneke, WSBA No. 22027

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated this 4th day of October 2019 in Seattle, Washington.

s/ Caitilin Hall
Caitilin Hall
Legal Assistant